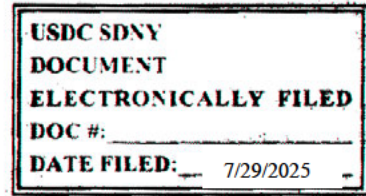


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**



-----X
ERIK M. UNDERWOOD,

Plaintiff,

25-CV-5007 (JPC)(SN)

-against-

ORDER

BANK OF AMERICA CORPORATION,

Defendant.
-----X

SARAH NETBURN, United States Magistrate Judge:

On June 13, 2025, Plaintiff filed an *ex parte* emergency motion for declaratory judgment, constructive trust, injunctive relief, and investor protection. ECF No. 4. The Court concluded that it was not apparent that he was entitled to the emergency relief he sought considering the previous judgments issued on substantially similar claims and the possible bars to relitigating these claims in this forum. ECF No. 9. The Court ordered Plaintiff to serve Defendant with a copy of: (1) his emergency complaint, (2) his *ex parte* emergency motion, and (3) the Court's Order. Plaintiff was also ordered to file proof of service on the docket. There is no evidence in the record that Plaintiff has complied with this order.

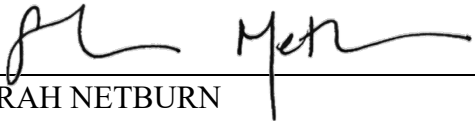
Instead, Plaintiff has filed an emergency motion for reconsideration of the Court's July 8, 2025 Order. Plaintiff does not set forth the standard for reconsideration and does not justify the emergency relief he seeks, which primarily concerns the alleged use of his trademark by Defendant. The Court has also not denied Plaintiff's original motion but only directed that the Defendant be served with Plaintiff's papers. Thus, there is no substantive decision on the motion

from which Plaintiff could seek reconsideration, in any event. Accordingly, the Court DENIES Plaintiff's emergency motion as improperly filed.

Plaintiff is ORDERED to serve Defendant immediately with a copy of: (1) his emergency complaint, (2) his *ex parte* emergency motion, (3) the Court's July 8, 2025 Order, (4) his emergency motion for reconsideration, and (5) this Order. Plaintiff shall serve these on Defendant within one week of this Order and file proof of service no later than August 5, 2025. If Plaintiff fails to comply with this Court's orders, he may be subject to sanctions, including potentially the dismissal of his case.

The Clerk of Court is respectfully requested to terminate the motion at ECF No. 10.

SO ORDERED.



SARAH NETBURN
United States Magistrate Judge

DATED: July 29, 2025
New York, New York